

ASSEMBLY BILL

No. 2656

Introduced by Assembly Member Alquist

February 22, 2002

An act to amend Section 904.1 of the Code of Civil Procedure, relating to appeals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2656, as introduced, Alquist. Appeals: certification of class actions.

Existing law specifies the instances in which an appeal, other than in a limited civil case, may be taken.

This bill would provide that a court of appeal may in its discretion permit an appeal from an order of a superior court granting or denying class action certification if application is made to it within 10 days after service of notice of entry of the order. The bill would further provide that the appeal, if permitted, does not stay proceedings in the superior court unless the superior court judge or the court of appeal so orders.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 904.1 of the Code of Civil Procedure is
- 2 amended to read:
- 3 904.1. (a) An appeal, other than in a limited civil case, is to
- 4 the court of appeal. An appeal, other than in a limited civil case,
- 5 may be taken from any of the following:

1 (1) From a judgment, except (A) an interlocutory judgment,
2 other than as provided in paragraphs (8), (9), and (11), (B) a
3 judgment of contempt that is made final and conclusive by Section
4 1222, or (C) a judgment granting or denying a petition for issuance
5 of a writ of mandamus or prohibition directed to a municipal court
6 or the superior court in a county in which there is no municipal
7 court or the judge or judges thereof that relates to a matter pending
8 in the municipal or superior court. However, an appellate court
9 may, in its discretion, review a judgment granting or denying a
10 petition for issuance of a writ of mandamus or prohibition, or a
11 judgment or order for the payment of monetary sanctions, upon
12 petition for an extraordinary writ.

13 (2) From an order made after a judgment made appealable by
14 paragraph (1).

15 (3) From an order granting a motion to quash service of
16 summons or granting a motion to stay or dismiss the action on the
17 ground of inconvenient forum.

18 (4) From an order granting a new trial or denying a motion for
19 judgment notwithstanding the verdict.

20 (5) From an order discharging or refusing to discharge an
21 attachment or granting a right to attach order.

22 (6) From an order granting or dissolving an injunction, or
23 refusing to grant or dissolve an injunction.

24 (7) From an order appointing a receiver.

25 (8) From an interlocutory judgment, order, or decree, hereafter
26 made or entered in an action to redeem real or personal property
27 from a mortgage thereof, or a lien thereon, determining the right
28 to redeem and directing an accounting.

29 (9) From an interlocutory judgment in an action for partition
30 determining the rights and interests of the respective parties and
31 directing partition to be made.

32 (10) From an order made appealable by the provisions of the
33 Probate Code or the Family Code.

34 (11) From an interlocutory judgment directing payment of
35 monetary sanctions by a party or an attorney for a party if the
36 amount exceeds five thousand dollars (\$5,000).

37 (12) From an order directing payment of monetary sanctions
38 by a party or an attorney for a party if the amount exceeds five
39 thousand dollars (\$5,000).



1 (13) From an order granting or denying a special motion to
2 strike under Section 425.16.

3 (14) *From an order of a superior court granting or denying*
4 *class action certification to a court of appeal, at the discretion of*
5 *the court of appeal, if application is made to it within 10 days after*
6 *service of notice of entry of the order. The appeal, if permitted, does*
7 *not stay proceedings in the superior court unless the superior court*
8 *judge or the court of appeal so orders.*

9 (b) Sanction orders or judgments of five thousand dollars
10 (\$5,000) or less against a party or an attorney for a party may be
11 reviewed on an appeal by that party after entry of final judgment
12 in the main action, or, at the discretion of the court of appeal, may
13 be reviewed upon petition for an extraordinary writ.

